

SENATE BILL REPORT

SB 5563

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, February 24, 2009

Title: An act relating to hours of labor for health care employees.

Brief Description: Regarding hours of labor for health care employees.

Sponsors: Senators Franklin, Prentice, Keiser, Pflug, Zarelli, Benton, Kohl-Welles, Pridemore, Kline and Fairley.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 2/16/09, 2/24/09 [DPS, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5563 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

Minority Report: Do not pass.

Signed by Senators Holmquist, Ranking Minority Member; Honeyford and King.

Staff: Kathleen Buchli (786-7488)

Background: Both federal and Washington minimum wage laws establish requirements related to overtime work. These laws require covered employees to receive overtime pay for hours worked over 40 hours per week. These wage laws do not, however, prohibit an employer from requiring employees to work overtime. Meal and rest periods are conditions of labor that are regulated by the Department of Labor and Industries (L&I). In general, workers must be allowed a paid rest break of at least ten minutes for each four hours worked and if more than five hours are worked in a shift, workers must be allowed at least a 30 minute meal period. Where the nature of the work allows employees to take intermittent rest periods equivalent to ten minutes for each four hours worked, scheduled rest periods are not required.

Registered nurses and licensed practical nurses employed by a health care facility involved in direct patient care activities or clinical services who are paid on an hourly basis may not be

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

required to work overtime but may accept overtime work voluntarily. This prohibition does not apply to emergencies, pre-scheduled on-call time, when the employer has used reasonable efforts to obtain staffing, or when the employee is needed to complete a patient care procedure already in progress.

Summary of Bill (Recommended Substitute): Employees of health care facilities may enter into collective bargaining contracts or other agreements that specifically vary from or supersede rest and meal period rules adopted by L&I.

In addition to licensed practical nurses and registered nurses, surgical technologists, radiologic technologists, diagnostic medical sonographers, and cardiovascular technologists may not be required to work overtime. The exception to the overtime prohibition relating to pre-scheduled on-call time is modified. Pre-scheduled on-call time must only be used for unanticipated and immediate patient care emergencies and not to fill chronic or foreseeable staff shortages. Efforts to obtain staffing to avoid pre-scheduled on-call time must be documented by the employer. The employer may not schedule nonemergency procedures that require overtime.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended Substitute): The section requiring that health care employees be provided with scheduled meal and rest periods is removed. Employees of health care facilities may enter into collective bargaining contracts, labor/management agreements, or other mutually agreed to employment agreements that specifically vary from or supersede meal and rest period rules adopted by L&I. Diagnostic medical sonographers are added to the list of health care professionals who may not be required to work overtime.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: Intermittent leave is counted as time off rather than having a block of time. There are real concerns regarding the safety of patients, especially in high stress work environments. This will close a loophole regarding scheduled standby or on-call time for nurses. These statutes do not apply to state hospitals. Mandatory overtime contributes to unsafe patient care. Mandatory on-call has been extended to be thinly disguised mandatory overtime. Being on-call is an important part of our jobs, but this is being used for non-emergencies. This causes stress to the provider and puts an unfair burden on the providers. Nurses need and patients deserve uninterrupted rest and meal breaks for registered nurses. The use of pre-scheduled on-call is not prohibited, but it must be used only appropriately for unanticipated patient care emergencies. Staffing committees do not have the ability to set state standards for uninterrupted breaks.

CON: Intermittent rest breaks are an essential part of patient care. The type of work requires flexibility; frequently nurses ask to not take a scheduled break in order to meet patient care needs. A better solution would be to add this issue to the agendas of staffing committees and work the issue within the dynamic of their work environment. Pre-scheduled on-call is essential for staffing at evening and night shifts. There are unanticipated consequences of this legislation. There will be an overall financial impact on these organizations. Rural health care will be impacted, including impacts on patients, staff, and hospitals. We are not a manufacturing industry and it is difficult to leave a bedside for scheduled breaks. This will negatively impact the bottom line of hospitals and negatively impact employees in regards to patient care. The bill will result in a significant fiscal impact.

Persons Testifying: PRO: Senator Franklin, prime sponsor; Susan Jacobsen, Anne Tan Piazza, Washington State Nurses Association; Barb Cryderman, Chris Burton, Service Employees International Union #1199.

CON: Lisa McDaniel, Craig Wilson, Kittitas Valley Community Hospital; Lisa Thatcher, Washington State Hospital Association; Patty Cochran, Harrison Medical Center.